

9 KAR 1:050. Approval of outside employment of a public servant.

RELATES TO: KRS 11A.040(9)

STATUTORY AUTHORITY: KRS 11A.040(10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.040(9) requires the appointing authority to review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

Section 1. (1) A public servant who requests approval of his appointing authority for outside employment shall submit a statement under oath to the appointing authority of his agency as follows: "I request approval of off-duty employment with (name of outside employer). As a (public servant's job title), I am not involved in the (name of state agency's) decisions concerning (name of outside employer). If the request is approved, I agree that if, in the future, I realize that I will be involved in such decisions, I will immediately notify (appointing authority) and take steps to avoid any conflict of interest."

(2) The public servant shall attach to this statement:

(a) The public servant's current P-1 personnel form or comparable form, if applicable, and job description, and the name, title and location of the public servant's immediate supervisor.

(b) The name and address of the outside employer; description of its type of business, ownership, and all its business and regulatory relationships with the appointing authority's agency; and a description of the public servant's off-duty job.

(c) An explanation of the specific factors which separate the public servant's state job from the agency's decisions concerning the outside employer.

Section 2. The appointing authority shall review the request and consider, including but not limited to, the following factors:

(1) The degree of separation between the public servant's state duties and decisions concerning the outside employer. Example: whether the public servant is involved with the awarding of contracts to or regulation of the outside employer.

(2) The public servant's level of supervisory or administrative authority, if any. Example: whether the public servant has ultimate responsibility for a decision concerning the outside employer, although he is not involved in the decision-making process.

(3) Whether the outside employment will interfere or conflict with the public servant's state employment duties.

(a) A conflict shall exist if a public servant cannot carry out an appropriate course of action for his agency because of responsibilities his outside employment would require.

(b) A conflict shall exist if the outside employment will materially interfere with the public servant's independent judgment in considering alternatives or courses of action that reasonably should be pursued in his state employment.

(4) The duration of the outside employment;

(5) Whether the outside employment would create an appearance of conflict of interest with state duties; and

(6) Whether the public servant is an auditor, inspector or other regulatory personnel of a division which is currently auditing, inspecting or reviewing or has scheduled an audit, inspection or review of the outside entity for which the public servant requests approval to work.

Section 3. The appointing authority shall consider the factors set forth in Section 2 of this administrative regulation and, if the appointing authority approves the outside employment request, certify in writing the following:

"As appointing authority for the (agency), I certify that as a (public servant's job title), (public servant's name) is not involved in this agency's decisions concerning (outside employer); that his off-duty employment by (outside employer), in my opinion, will not create a real or perceived conflict of interest which would damage public confidence in government; and that I approve such off-duty employment."

Section 4. On January 15, April 15, July 15, and October 15 of each year, the appointing authority shall file with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment during the preceding quarter, along with the name of the outside employer of each. (21 Ky.R. 1397; 1719; eff. 12-14-1994; 25 Ky.R. 887; 1580; eff. 1-19-1999; TAm eff. 9-12-2018; Crt eff. 1-28-2020.)